

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19644
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On July 14, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1999, 2000, and 2003 in the total amount of \$19,453.

On September 13, 2006, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to provide additional information and/or income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer was employed in Idaho from 1999 through 2004. The Bureau researched the Tax Commission's records and found the taxpayer did not file Idaho individual income tax returns for any of those years. The Bureau sent the taxpayer a letter asking about her requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer did have a filing requirement for all the years. However, based upon all the information available, the Bureau determined the taxpayer had a tax liability for only the years 1999, 2000, and 2003. The Bureau prepared income tax returns for the taxpayer for those three years and sent her a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. She stated that she was working on filing her returns for 1999 through 2005. The taxpayer had specific concerns about the number

of dependents the Bureau allowed, the property sales being wholly attributed to her, and her gifting of money to her children. The Bureau allowed the taxpayer additional time to provide Idaho income tax returns, but the taxpayer failed to provide the returns or have further contact with the Bureau. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter explaining the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer contacted the Tax Commission and stated that she was planning to file returns but she needed additional time to get the information on the property settlement after her divorce. She also stated that she needed forms and instructions for all the years. The Tax Commission agreed to the additional time and sent the taxpayer forms and instructions for the tax years 1999 through 2005.

After several months with no contact from the taxpayer, the Tax Commission sent another letter to the taxpayer asking for an anticipated date when her returns could be expected. The taxpayer did not respond. The Tax Commission telephoned the taxpayer and left a voice mail message asking her to contact the Tax Commission but still the taxpayer failed to respond. Therefore, the Tax Commission, believing the taxpayer has had ample time to prepare and submit income tax returns or to provide any other information, decided the matter based upon the information available.

Idaho Code section 63-3030 provides the filing thresholds for filing Idaho income tax returns. The Bureau received information from the Department of Labor that the taxpayer was employed in Idaho. The Bureau followed up on that information by obtaining additional information [Redacted]. The information obtained shows that the taxpayer's income was above the individual filing requirements of Idaho Code section 63-3030. The taxpayer does not disagree that she was required to file Idaho individual income tax returns for the years 1999

through 2004. Therefore, the Tax Commission upholds the Bureau's determination that the taxpayer was required to file Idaho income tax returns for the years in question.

The taxpayer questioned or contends that the Bureau did not allow her the proper number of dependent exemptions, did not properly allocate her portion of the property sales, or did not account for the gifting of money to her children. However, the taxpayer has not provided anything to show that she is entitled to additional dependent exemptions, what her basis and gain was in the property sold, or the statutory basis for deducting gifts to her children.

Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefor can any particular deduction be allowed. . . Obviously, therefore, a taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms.

New Colonial Ice Co., Inc. v. Helvering, 292 US. 435, 54 S.Ct. 788 (1934).

In Idaho it is well established that a Tax Commission deficiency notice is presumed to be correct, and the burden is on the taxpayer to show the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The taxpayer has not met that burden. Since the taxpayer has failed to provide anything to show that the Bureau's tax computation is incorrect, the Tax Commission must uphold the Notice of Deficiency Determination.

The Bureau added interest and penalty to the taxpayer's tax. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated July 14, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$ 134	\$ 34	\$ 31	\$ 199
2000	11,575	2,894	4,907	19,376
1999	515	129	259	<u>903</u>
			TOTAL DUE	<u>\$20,478</u>

Interest is computed to December 15, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2007, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.